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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,876	01/10/2001	Yasuo Himuro	Q62523	6217

7590 04/15/2003

SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER

MAKI, STEVEN D

ART UNIT	PAPER NUMBER
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1733

7

DATE MAILED: 04/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/756,876

Applicant(s)

HIMURO, YASUO

Examiner

Steven D. Maki

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6, 8 and 11-13 is/are rejected.
- 7) ☒ Claim(s) 2, 7, 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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- 1) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claims 11, 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 11, 12 and 13, it is unclear how "respectively" affects the scope of the claim. In each of claims 11, 12 and 13, it is suggested to delete --, respectively--.

- 3) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 4) **Claims 1, 6, 8, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himuro (JP 9-2024) in view of Hutson et al (US 5746849) and/or Europe '709 (EP 812709).**

Himuro substantially discloses the claimed invention except for the shape of the first land part being "approximately triangular".

As to claims 1, 6 and 8, it would have been obvious to one of ordinary skill in the art to shape the "first land parts" 3 of the directional tread of Himuro so as to be "approximately triangular" in view of (a) Hutson et al's suggestion to shape "first land parts" 30 of a directional tread such that the first land parts are "approximately triangular" to thereby improve stiffness and/or (b) Europe '709's suggestion to shape

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"first land parts" 16 of a directional tread such that the first land parts are "approximately triangular" using steep slant grooves in order to improve drainage.

As to claims 11 and 12, it would have been obvious to incline the first auxiliary land part (the portion of the protrusion of the rib 1 having the gradually decreasing height) and second auxiliary land part (the axially outer end portion of the block 3 having gradually decreasing height) at the claimed 135-170 degrees (45-80 degrees with respect to the normal to the tread surface) since Himuro teaches gradually changing height to improve wet drainage performance and secure driving stability ability and partial wear proof performance and illustrates the change in height in figures 2 and 3.

5) **Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Himuro (JP 9-2024) in view of Hutson et al (US 5746849) and/or Europe '709 (EP 812709) as applied above and further in view of Europe '270 (EP 565270) and Williams (US 4299264).**

As to claim 3, it would have been obvious to include a circumferential fine groove ("fine" being a relative term) in the center rib of Himuro since it is well known / conventional in the tread art to use a circumferential groove in a center rib of a directional tread as evidenced by Europe '270 and Williams.

6) **Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himuro (JP 9-2024) in view of Hutson et al (US 5746849) and/or Europe '709 (EP 812709) and further in view of Europe '270 (EP 565270) and Williams (US 4299264) as applied above and further in view of one of Fontaine (WO 99/17944), Japan '909 (JP 62-194909) and Ofensend (US 2327057).**

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As to claims 4 and 5, it would have been obvious to provide the circumferential groove with the claimed shape (narrow top and wide bottom / flanged shaped) in view of one of Fontaine, Japan '909 and Ofensend – Fontaine suggesting to use such a circumferential groove as a center groove in a directional tread in order to remove water from the footprint (figure 4), Japan '909 suggesting to use such a circumferential groove to increase wet performance and to reduce noise (figure 1-2) and Ofensend suggesting to use such a circumferential groove to provide resistance to side slippage while at the same time providing broad contact area.

Allowable Subject Matter

7) Claims 2, 7, 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

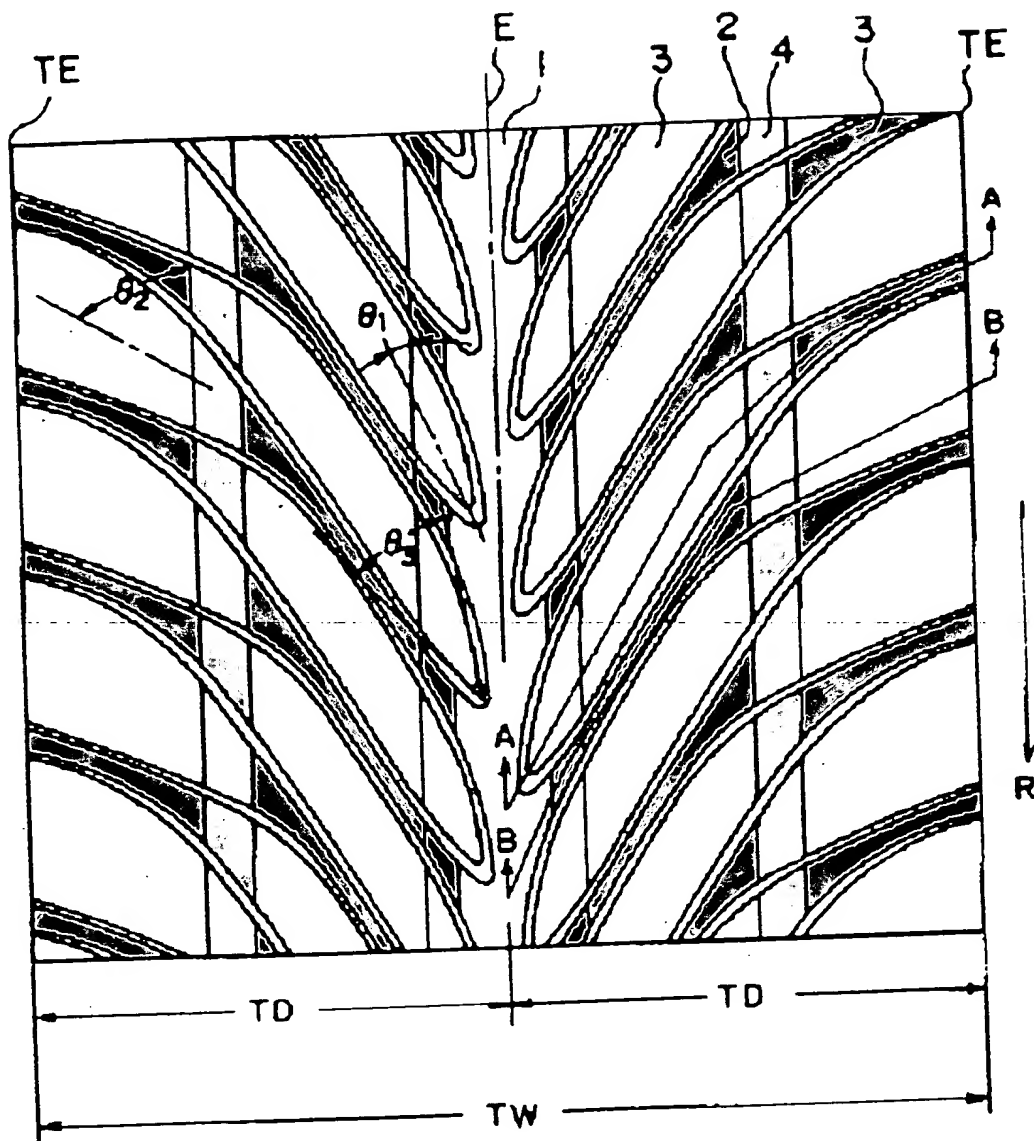
Claim 13 is would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Remarks

8) Applicant's arguments filed 2-21-03 have been fully considered but they are not persuasive.

Applicant argues that Himuro fails to teach the "auxiliary land part". The examiner disagrees. The claimed auxiliary land part reads on the portion of the protrusion of the rib 1 having the gradually decreasing height.

With respect to the "auxiliary land part", a colored enlarged copy of figure 1 of Himuro is provided below:



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The yellow, blue, orange and pink colors were added by the examiner. The ground contacting face of the rib 1, the blocks 2 and the blocks 3 is colored yellow. The slant grooves (the low height portions of blocks 2, 3) are colored blue. The first auxiliary land part is colored orange. The second auxiliary land part is colored pink.

Applicant argues that the seemingly steeply sloped portions of blocks 2, 3 define sides to circumferential grooves and have nothing to do with the gradually sloping auxiliary land part in claim 1. Applicant's argument is off point. The auxiliary land part in claim 1 reads on the portion of the protrusion of the rib 1 having the gradually decreasing height which is colored orange in the above colored applicant's figure 1.

Applicant argues that Himuro is completely silent regarding the angle of the sloped portions of blocks 2, 3. More properly, Himuro teaches gradually changing height to improve wet drainage performance and secure driving stability ability and partial wear proof performance and illustrates the change in height in figures 2 and 3.

Applicant argues that Hutson and Europe '709 fail to teach the auxiliary land part recited in claim 1. As noted above, Himuro teaches the auxiliary land part recited in claim 1. Hutson and Europe '709 suggest using the "approximately triangular" shape for the first land parts (blocks 3) of Himuro.

9) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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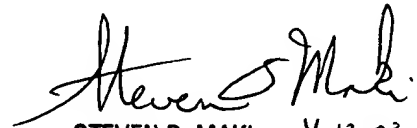
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is 703-308-2068. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703) 308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Steven D. Maki
April 12, 2003


STEVEN D. MAKI 4-12-03
PRIMARY EXAMINER
~~GROUP 1300~~
Av 1733